

Remarks and interview summary

In the previous Office Action, the examiner had indicated allowance of claims 1-13, 16-21, and 44. After reviewing assignee's last response, the Examiner telephoned the undersigned in February 2006 and orally indicated allowance of all claims except claims 26-27. Assignee's representative then scheduled an interview to discuss the claim format of the two remaining claims. At that interview, held in the Office on March 7, 2006, the examiner showed the undersigned a copy of an Office Action mailed that same day, which rejected all pending claims and entered new grounds of rejection. Assignee has addressed all rejections and improved the form of the claims to avoid technical issues and respectfully requests prompt allowance.

In response to the Section 112(2) rejections of certain claims, at the interview, assignee's representative explained that the specification uses the term "linguistic equivalent" as referring to a term in a different language (such as a language of a foreign country) or an English term that expresses the same concept using alternative words. This argument met with apparent satisfaction by the examiner and his supervisory primary examiner, who agreed to reconsider the indefiniteness rejection.

In response to the Section 101 rejections, assignee has previously explained that the specification at paragraph [0022] does not "define" the term "data storage medium" to include intangible media. Rather, that paragraph states that the functional modules shown in FIG. 1 "can be suitably implemented by hardware, software, or both." The paragraph refers to the data being stored in "shared storage media" and gives examples, namely, "RAM media, dual-access RAM, files residing on hard disk media, etc.," all of which examples are tangible media. At the interview, assignee explained this point again, again to the apparent satisfaction of the examiner and his SPE.

The above comments suffice to overcome the Section 101 rejections as stated for all claims but claims 26-27. Those are "propagated signal" claims, and the Office Action states (para. 8) that they are "non-statutory as not being tangibly embodied in a manner so as to be executable." Assignee previously made an appropriate amendment hoped to overcome this rejection, but the Office Action does not acknowledge the amendment or the argument. However, the examiner and SPE conducted a further interview with

Serial No. 09/915,719

Page 16 of 18

the undersigned by telephone on June 14, 2006, in which they explained that the Office's current position is that propagated signal claims are not patentable *per se*, based on the Office's recent proposed and interim adopted revised guidelines for Section 101 issues. The Office intends to maintain that position unless instructed otherwise by the Board of Appeals or a reviewing court.

Assignee wishes to avoid an appeal or court battle with the PTO on this issue and has accordingly further modified claim 26 and submits new independent claim 53, both of which have one dependent claim. The new claims are not in propagated-signal format *per se*, but rather are directed to a transmission network (clearly an "apparatus" under Section 101) through which signals of a defined sort move.

In considering the replacements for the propagated-signal claims, assignee reminds the examiner that a "frame" is a packet of data encoded for transmission over a network, or a defined group of data bits, sometimes consecutive, into which data is organized. The claim language specifies how the data being transmitted over the network is organized into frames, so it is possible to determine whether a given data stream meets the limitations of the claims given knowledge of the data organization.

In response to the rejections under Section 103, at the March 2006 interview, the examiner and SPE discussed with the undersigned that the claim language did not clearly identify what happens as a result of recording addresses in the second or third fields, and also noted, with respect to claim 1 and certain other claims, that the "at least one" language could cover the case where addresses are entered only in the "to" field, as is conventional. The Office representatives explained that the repetition and extension of the Section 103 rejections resulted from such lack of precision, but if such elements were expressed clearly in the claim language, they would provide clear distinctions over the cited references in accordance with assignee's previous arguments. Accordingly, assignee's representative has reviewed the claims carefully and made appropriate changes to state expressly certain points believed implicit in the claims as previously submitted, for better clarification. With these amendments, assignee respectfully submits that the application is allowable.

In the June 2006 interview, based on review of a draft amendment, the examiner and SPE indicated that claims 1 and 14 and the claims dependent thereon, were in condition for allowance as written in the draft, accordingly agreement was reached on those claims. The remainder of the claims would require further review, but no explanation was given for any reason for rejection. The draft amendment did not contain the replacements for the propagated-signal claims in the form presented here, so the comments in the June 2006 interview were not addressed to those four claims.

Assignee respectfully request prompt reconsideration and allowance of all claims presented here.

If the examiner has any questions, please feel free to contact assignee's undersigned attorney.

Respectfully submitted,

TACIT NETWORKS, INC.

by its attorney



Louis J. Hoffman

Reg. No. 38,918

LOUIS J. HOFFMAN, P.C.

14614 North Kierland Boulevard

Suite 300

Scottsdale, Arizona 85254

(480) 948-3295

Dated: July 6, 2006